

Entered on Docket  
August 03, 2015  
EDWARD J. EMMONS, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA



The following constitutes  
the order of the court. Signed July 31, 2015

*William J. Lafferty, III*

William J. Lafferty, III

U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

In re:

JORGE EDGARD QUINONES and LIDIA  
DELVALLE QUINONES,

Debtors.

Case No. 12-46834 WJF

Chapter 7

THE BOARD OF TRUSTEES, in their  
capacities as Trustees of the LABORERS  
HEALTH AND WELFARE TRUST FUND  
FOR NORTHERN CALIFORNIA, ET. AL.,

Plaintiffs,

Adversary No. 13-04015

vs.

JORGE EDGARD QUINONES and LIDIA  
DELVALLE QUINONES,

Defendants.

## MEMORANDUM REGARDING RECENT NINTH CIRCUIT DECISION

Jorge and Lidia Quinones, defendants in the above captioned adversary proceeding, have filed and served a Motion for Summary Adjudication, which has been set for hearing on Wednesday, August 12 at 10:30 a.m. The Motion seeks relief with respect to the Second Claim in the First Amended Complaint, which asserts that a debt owing to plaintiff, The Board of Trustees, in their capacities as Trustees of the Laborers Health and Welfare Trust Fund for Northern California, et al., is non-dischargeable pursuant to the

provisions of 11 U.S.C. Section 523(a)(4) (Fraud or Defalcation By a Fiduciary, Larceny, Embezzlement). Plaintiff has filed an opposition to the Motion for Summary Adjudication, and has filed its own Motion for Summary Adjudication of the Second Claim for Relief, which is set for hearing on September 2, 2015 at 10:30 a.m.

As the parties may well be aware, on July 30 the Ninth Circuit Court of Appeals published an opinion in the case of *Bos v. Board of Trustees in their capacity as Trustees of the Carpenters Health and Welfare Fund of California, etc.*, No. 13-15604, which determined that an employer's contractual requirement to contribute to an employee benefits trust fund does not make it a fiduciary of unpaid contributions. *Bos v. Board of Trustees*, at 13.

10        Obviously, the *Bos* opinion is of high importance to the court's determination of the Second Claim  
11 for Relief, at least to the extent that claim relies on a defalcation by a fiduciary theory. The parties should be  
12 prepared to discuss the Ninth Circuit's opinion in *Bos* during the August 12 hearing on the Defendants'  
13 Motion for Summary Adjudication.

\* \* \* END OF MEMORANDUM \* \* \*

UNITED STATES BANKRUPTCY COURT  
For The Northern District Of California

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